IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 16998 of 2004

Between:

B.I. Prabhakara Rao, S/o. Abraham,
D.No. 43-2-2, Churchpet, Rajahmundry, East Godavari District.

..... PETITIONER

AND

1. The Andhra Pradesh Paper Mills Limited, Rep. by the Senior Manager (Accounts), Rajahmundry, East Godavari District.

2. The Regional Provident Fund Commissioner, Sub- Regional Office, RAJAHMUNDRY.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or Directions, more particularly one in the nature of Writ of Mandamus to direct the Respondents herein: a) To call for the records pertaining to the service particulars of the petitioner herein; b) To pay the Pensionary Benefits and Pension from 01-12-1967 i.e., from the date of initial appointment of the petitioner herein; c) To award the costs to the Petitioner herein by holding the action of the Respondents herein for not considering his case and not paying the Pensionary Benefits and pension to the Petitioner herein as bad, illegal, irrational, illogical, arbitrary, discriminatory, void, voidable, violative of Fundamental Rights, Principles of Natural Justice and also violative of Article 14, 16 and 21 of the Constitution of India.

Counsel for the Petitioner: MR.A.NAGENDRA RAO

Counsel for the Respondent No.1: Sri Vedula Srinivas

Counsel for the Respondent No.2: MR.R.N.REDDY

The Court at the admission stage, made the following :

HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No.16998 of 2004

ORDER:

The petitioner worked as a Crane Operator under the 1st respondent-Paper Mill. He worked from 01-12-1967 to 09-07-1980 and later he was removed. He was appointed afresh on 27-05-1981 and he retired from service on 31-03-1995.

2. The grievance of the petitioner is that he was not paid family pension for the first spell and also from 27-05-1981 to 01-08-1981 in the second spell. Therefore, he approached this Court through this writ petition seeking a direction to the 2nd respondent to extend the pensionery benefit for both the periods.

3. The 2nd respondent filed a counter contending that after introduction of the family pension scheme in 1971, the petitioner became a member from 01-06-1971 and he was discharged from service with effect from 09-07-1980. On receipt on the claims from the petitioner, his account was settled and the Provident Fund amount was refunded on 26-11-1980 and he was also given the family pension withdrawal benefit in May, 1981 and thus, the petitioner ceased to be the member of the Provident Fund Scheme and also the Family Pension

Scheme. The 2nd respondent further mentioned that after fresh appointment of the petitioner on 27-05-1981 and after a period of three months, being the waiting period, he was allotted the Provident Fund Account number on 01-08-1981 and the claims for Provident Fund and the Pension for the period from 01-08-1981 to 31-03-1995 were settled and the petitioner is drawing the pension every month. It is further mentioned that since the petitioner ceased to be the member of the Pension Scheme on settlement of his account on discharge from service on 09-07-1980, he was not extended the benefit of the pension for the 1st spell of service.

4. As per the averments made by the 2nd respondent in the counter affidavit, it is clear that during the 1st spell period, there was only the Family Pension Scheme and the Pension Scheme was introduced only with effect from 16-11-1985. But since the Bill for the Pension Scheme was pending in the Parliament, the benefit was extended to all the employees who retired on or after 16-11-1985 and as the petitioner retired from service on 31-03-1995, the benefit of Pension Scheme was extended to him for the 2nd spell and he is drawing the pension continuously from the date of retirement. Though the petitioner contended that he is entitled to get the pension by computing the period from 27-05-1981, in view of the clarification given by the 1st respondent, the petitioner is entitled for the pension only from 01-08-1981.

5. In the light of the above circumstances, I do not find any force in the contentions raised by the petitioner. The writ petition is accordingly dismissed. If the petitioner has any doubt about the particulars of the amount and period for which he was paid the amount, he may approach the 2nd respondent and the 2nd respondent is directed to issue necessary clarification to the petitioner to dispel his doubt about the payments of the Provident Fund amount and the Pension.

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November 16, 2004.

KVR

To

1. The Senior Manager (Accounts),Andhra Pradesh Paper Mills Limited, Rajahmundry, East Godavari District.

2. The Regional Provident Fund Commissioner, Sub- Regional Office, RAJAHMUNDRY.

3. Two C.D.Copies.